

As Introduced

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S. B. No. 45

Senators Skindell, Eklund

Cosponsors: Senators Tavares, Schiavoni, Seitz, Thomas

A BILL

To amend sections 1710.01, 1710.02, and 1710.06 of
the Revised Code to authorize the creation of a
special improvement district to facilitate Lake
Erie shoreline improvement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1710.01, 1710.02, and 1710.06 of
the Revised Code be amended to read as follows:

Sec. 1710.01. As used in this chapter:

(A) "Special improvement district" means a special
improvement district organized under this chapter.

(B) "Church" means a fellowship of believers,
congregation, society, corporation, convention, or association
that is formed primarily or exclusively for religious purposes
and that is not formed for the private profit of any person.

(C) "Church property" means property that is described as
being exempt from taxation under division (A) (2) of section
5709.07 of the Revised Code and that the county auditor has
entered on the exempt list compiled under section 5713.07 of the

Revised Code.	18
(D) "Municipal executive" means the mayor, city manager, or other chief executive officer of the municipal corporation in which a special improvement district is located.	19 20 21
(E) "Participating political subdivision" means the municipal corporation or township, or each of the municipal corporations or townships, that has territory within the boundaries of a special improvement district created under this chapter.	22 23 24 25 26
(F) "Legislative authority of a participating political subdivision" means, with reference to a township, the board of township trustees.	27 28 29
(G) "Public improvement" means the planning, design, construction, reconstruction, enlargement, or alteration of any facility or improvement, including the acquisition of land, for which a special assessment may be levied under Chapter 727. of the Revised Code, and includes any special energy improvement <u>project or shoreline improvement project.</u>	30 31 32 33 34 35
(H) "Public service" means any service that can be provided by a municipal corporation or any service for which a special assessment may be levied under Chapter 727. of the Revised Code.	36 37 38 39
(I) "Special energy improvement project" means any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photovoltaic project, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency improvement, whether such real or	40 41 42 43 44 45 46

personal property is publicly or privately owned. 47

(J) "Existing qualified nonprofit corporation" means a 48
nonprofit corporation that existed before the creation of the 49
corresponding district under this chapter, that is composed of 50
members located within or adjacent to the district, that has 51
established a police department under section 1702.80 of the 52
Revised Code, and that is organized for purposes that include 53
acquisition of real property within an area specified by its 54
articles for the subsequent transfer of such property to its 55
members exclusively for charitable, scientific, literary, or 56
educational purposes, or holding and maintaining and leasing 57
such property; planning for and assisting in the development of 58
its members; providing for the relief of the poor and distressed 59
or underprivileged in the area and adjacent areas; combating 60
community deterioration and lessening the burdens of government; 61
providing or assisting others in providing housing for low- or 62
moderate-income persons; and assisting its members by the 63
provision of public safety and security services, parking 64
facilities, transit service, landscaping, and parks. 65

(K) "Energy efficiency improvement" means energy 66
efficiency technologies, products, and activities that reduce or 67
support the reduction of energy consumption, allow for the 68
reduction in demand, or support the production of clean, 69
renewable energy and that are or will be permanently fixed to 70
real property. 71

(L) "Customer-generated energy project" means a wind, 72
biomass, or gasification facility for the production of 73
electricity that meets either of the following requirements: 74

(1) The facility is designed to have a generating capacity 75
of two hundred fifty kilowatts of electricity or less. 76

(2) The facility is:	77
(a) Designed to have a generating capacity of more than two hundred fifty kilowatts of electricity;	78 79
(b) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;	80 81 82
(c) Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and	83 84 85 86
(d) Not producing energy for direct sale by the facility owner to the public.	87 88
(M) "Reduction in demand" means a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives.	89 90 91 92
(N) "Electric distribution utility" and "mercantile customer" have the same meanings as in section 4928.01 of the Revised Code.	93 94 95
<u>(O) "Shoreline improvement project" means acquiring, constructing, installing, equipping, improving, maintaining, or repairing real or tangible personal property necessary or useful for making improvements to abate erosion along the Lake Erie shoreline.</u>	96 97 98 99 100
Sec. 1710.02. (A) A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and	101 102 103 104

implementing plans for public improvements and public services 105
that benefit the district. A district may be created by petition 106
of the owners of real property within the proposed district, or 107
by an existing qualified nonprofit corporation. If the district 108
is created by an existing qualified nonprofit corporation, the 109
purposes for which the district is created may be supplemental 110
to the other purposes for which the corporation is organized. 111
All territory in a special improvement district shall be 112
contiguous; except that the territory in a special improvement 113
district may be noncontiguous if at least one special energy 114
improvement project or shoreline improvement project is 115
designated for each parcel of real property included within the 116
special improvement district. Additional territory may be added 117
to a special improvement district created under this chapter for 118
the purpose of developing and implementing plans for special 119
energy improvement projects or shoreline improvement projects if 120
at least one special energy improvement project or shoreline 121
improvement project, respectively, is designated for each parcel 122
of real property included within such additional territory and 123
the addition of territory is authorized by the initial plan 124
proposed under division (F) of this section or a plan adopted by 125
the board of directors of the special improvement district under 126
section 1710.06 of the Revised Code. 127

The district shall be governed by the board of trustees of 128
a nonprofit corporation. This board shall be known as the board 129
of directors of the special improvement district. No special 130
improvement district shall include any church property, or 131
property of the federal or state government or a county, 132
township, or municipal corporation, unless the church or the 133
county, township, or municipal corporation specifically requests 134
in writing that the property be included within the district, or 135

unless the church is a member of the existing qualified 136
nonprofit corporation creating the district at the time the 137
district is created. A special improvement district created to 138
implement a shoreline improvement project may include property 139
held by the state in trust for the people. More than one 140
district may be created within a participating political 141
subdivision, but no real property may be included within more 142
than one district unless the owner of the property files a 143
written consent with the clerk of the legislative authority, the 144
township fiscal officer, or the village clerk, as appropriate. 145
The area of each district shall be contiguous; except that the 146
area of a special improvement district may be noncontiguous if 147
all parcels of real property included within such area contain 148
at least one special energy improvement or shoreline improvement 149
thereon. 150

(B) Except as provided in division (C) of this section, a 151
district created under this chapter is not a political 152
subdivision. A district created under this chapter shall be 153
considered a public agency under section 102.01 and a public 154
authority under section 4115.03 of the Revised Code. Each member 155
of the board of directors of a district, each member's designee 156
or proxy, and each officer and employee of a district shall be 157
considered a public official or employee under section 102.01 of 158
the Revised Code and a public official and public servant under 159
section 2921.42 of the Revised Code. Districts created under 160
this chapter are not subject to sections 121.81 to 121.83 of the 161
Revised Code. Districts created under this chapter are subject 162
to sections 121.22 and 121.23 of the Revised Code. 163

(C) Each district created under this chapter shall be 164
considered a political subdivision for purposes of section 165
4905.34 of the Revised Code. 166

Membership on the board of directors of the district shall 167
not be considered as holding a public office. Directors and 168
their designees shall be entitled to the immunities provided by 169
Chapter 1702. and to the same immunity as an employee under 170
division (A) (6) of section 2744.03 of the Revised Code, except 171
that directors and their designees shall not be entitled to the 172
indemnification provided in section 2744.07 of the Revised Code 173
unless the director or designee is an employee or official of a 174
participating political subdivision of the district and is 175
acting within the scope of the director's or designee's 176
employment or official responsibilities. 177

District officers and district members and directors and 178
their designees or proxies shall not be required to file a 179
statement with the Ohio ethics commission under section 102.02 180
of the Revised Code. All records of the district shall be 181
treated as public records under section 149.43 of the Revised 182
Code, except that records of organizations contracting with a 183
district shall not be considered to be public records under 184
section 149.43 or section 149.431 of the Revised Code solely by 185
reason of any contract with a district. 186

(D) Except as otherwise provided in this section, the 187
nonprofit corporation that governs a district shall be organized 188
in the manner described in Chapter 1702. of the Revised Code. 189
Except in the case of a district created by an existing 190
qualified nonprofit corporation, the corporation's articles of 191
incorporation are required to be approved, as provided in 192
division (E) of this section, by resolution of the legislative 193
authority of each participating political subdivision of the 194
district. A copy of that resolution shall be filed along with 195
the articles of incorporation in the secretary of state's 196
office. 197

In addition to meeting the requirements for articles of incorporation set forth in Chapter 1702. of the Revised Code, the articles of incorporation for the nonprofit corporation governing a district formed under this chapter shall provide all the following:

(1) The name for the district, which shall include the name of each participating political subdivision of the district;

(2) A description of the territory within the district, which may be all or part of each participating political subdivision. The description shall be specific enough to enable real property owners to determine if their property is located within the district.

(3) A description of the procedure by which the articles of incorporation may be amended. The procedure shall include receiving approval of the amendment, by resolution, from the legislative authority of each participating political subdivision and filing the approved amendment and resolution with the secretary of state.

(4) The reasons for creating the district, plus an explanation of how the district will be conducive to the public health, safety, peace, convenience, and welfare of the district.

(E) The articles of incorporation for a nonprofit corporation governing a district created under this chapter and amendments to them shall be submitted to the municipal executive, if any, and the legislative authority of each municipal corporation or township in which the proposed district is to be located. Except in the case of a district created by an existing qualified nonprofit corporation, the articles or

amendments shall be accompanied by a petition signed either by 227
the owners of at least sixty per cent of the front footage of 228
all real property located in the proposed district that abuts 229
upon any street, alley, public road, place, boulevard, parkway, 230
park entrance, easement, or other existing public improvement 231
within the proposed district, excluding church property or 232
property owned by the state, county, township, municipal, or 233
federal government, unless a church, county, township, or 234
municipal corporation has specifically requested in writing that 235
the property be included in the district, or by the owners of at 236
least seventy-five per cent of the area of all real property 237
located within the proposed district, excluding church property 238
or property owned by the state, county, township, municipal, or 239
federal government, unless a church, county, township, or 240
municipal corporation has specifically requested in writing that 241
the property be included in the district. Pursuant to Section 2o 242
of Article VIII, Ohio Constitution, the petition required under 243
this division may be for the purpose of developing and 244
implementing plans for special energy improvement projects or 245
shoreline improvement projects, and, in such case, is determined 246
to be in furtherance of the purposes set forth in Section 2o of 247
Article VIII, Ohio Constitution. If a special improvement 248
district is being created under this chapter for the purpose of 249
developing and implementing plans for special energy improvement 250
projects or shoreline improvement projects, the petition 251
required under this division shall be signed by one hundred per 252
cent of the owners of the area of all real property located 253
within the proposed special improvement district, at least one 254
special energy improvement project or shoreline improvement 255
project shall be designated for each parcel of real property 256
within the special improvement district, and the special 257
improvement district may include any number of parcels of real 258

property as determined by the legislative authority of each 259
participating political subdivision in which the proposed 260
special improvement district is to be located. For purposes of 261
determining compliance with these requirements, the area of the 262
district, or the front footage and ownership of property, shall 263
be as shown in the most current records available at the county 264
recorder's office and the county engineer's office sixty days 265
prior to the date on which the petition is filed. 266

Each municipal corporation or township with which the 267
petition is filed has sixty days to approve or disapprove, by 268
resolution, the petition, including the articles of 269
incorporation. In the case of a district created by an existing 270
qualified nonprofit corporation, each municipal corporation or 271
township has sixty days to approve or disapprove the creation of 272
the district after the corporation submits the articles of 273
incorporation or amendments thereto. This chapter does not 274
prohibit or restrict the rights of municipal corporations under 275
Article XVIII of the Ohio Constitution or the right of the 276
municipal legislative authority to impose reasonable conditions 277
in a resolution of approval. The acquisition, installation, 278
equipping, and improvement of a special energy improvement 279
project under this chapter shall not supersede any local zoning, 280
environmental, or similar law or regulation. In addition, all 281
activities associated with a shoreline improvement project that 282
is implemented under this chapter shall comply with all 283
applicable local zoning requirements, all local, state, and 284
federal environmental laws and regulations, and all applicable 285
requirements established in Chapter 1506. of the Revised Code 286
and rules adopted under it. 287

(F) Persons proposing creation and operation of the 288
district may propose an initial plan for public services or 289

public improvements that benefit all or any part of the 290
district. Any initial plan shall be submitted as part of the 291
petition proposing creation of the district or, in the case of a 292
district created by an existing qualified nonprofit corporation, 293
shall be submitted with the articles of incorporation or 294
amendments thereto. 295

An initial plan may include provisions for the following: 296

(1) Creation and operation of the district and of the 297
nonprofit corporation to govern the district under this chapter; 298

(2) Hiring employees and professional services; 299

(3) Contracting for insurance; 300

(4) Purchasing or leasing office space and office 301
equipment; 302

(5) Other actions necessary initially to form, operate, or 303
organize the district and the nonprofit corporation to govern 304
the district; 305

(6) A plan for public improvements or public services that 306
benefit all or part of the district, which plan shall comply 307
with the requirements of division (A) of section 1710.06 of the 308
Revised Code and may include, but is not limited to, any of the 309
permissive provisions described in the fourth sentence of that 310
division or listed in divisions (A)(1) to (7) of that section; 311

(7) If the special improvement district is being created 312
under this chapter for the purpose of developing and 313
implementing plans for special energy improvement projects or 314
shoreline improvement projects, provision for the addition of 315
territory to the special improvement district. 316

After the initial plan is approved by all municipal 317

corporations and townships to which it is submitted for approval 318
and the district is created, each participating subdivision 319
shall levy a special assessment within its boundaries to pay for 320
the costs of the initial plan. The levy shall be for no more 321
than ten years from the date of the approval of the initial 322
plan; except that if the proceeds of the levy are to be used to 323
pay the costs of a special energy improvement project or 324
shoreline improvement project, the levy of a special assessment 325
shall be for no more than thirty years from the date of approval 326
of the initial plan. In the event that additional territory is 327
added to a special improvement district, the special assessment 328
to be levied with respect to such additional territory shall 329
commence not earlier than the date such territory is added and 330
shall be for no more than thirty years from such date. For 331
purposes of levying an assessment for this initial plan, the 332
services or improvements included in the initial plan shall be 333
deemed a special benefit to property owners within the district. 334

(G) Each nonprofit corporation governing a district under 335
this chapter may do the following: 336

(1) Exercise all powers of nonprofit corporations granted 337
under Chapter 1702. of the Revised Code that do not conflict 338
with this chapter; 339

(2) Develop, adopt, revise, implement, and repeal plans 340
for public improvements and public services for all or any part 341
of the district; 342

(3) Contract with any person, political subdivision as 343
defined in section 2744.01 of the Revised Code, or state agency 344
as defined in section 1.60 of the Revised Code to develop and 345
implement plans for public improvements or public services 346
within the district; 347

(4) Contract and pay for insurance for the district and 348
for directors, officers, agents, contractors, employees, or 349
members of the district for any consequences of the 350
implementation of any plan adopted by the district or any 351
actions of the district. 352

The board of directors of a special improvement district 353
may, acting as agent and on behalf of a participating political 354
subdivision, sell, transfer, lease, or convey any special energy 355
improvement project owned by the participating political 356
subdivision upon a determination by the legislative authority 357
thereof that the project is not required to be owned exclusively 358
by the participating political subdivision for its purposes, for 359
uses determined by the legislative authority thereof as those 360
that will promote the welfare of the people of such 361
participating political subdivision; ~~to~~ improve the quality of 362
life and the general and economic well-being of the people of 363
the participating political subdivision; better ensure the 364
public health, safety, and welfare; protect water and other 365
natural resources; provide for the conservation and preservation 366
of natural and open areas and farmlands, including by making 367
urban areas more desirable or suitable for development and 368
revitalization; control, prevent, minimize, clean up, or mediate 369
certain contamination of or pollution from lands in the state 370
and water contamination or pollution; or provide for safe and 371
natural areas and resources. The legislative authority of each 372
participating political subdivision shall specify the 373
consideration for such sale, transfer, lease, or conveyance and 374
any other terms thereof. Any determinations made by a 375
legislative authority of a participating political subdivision 376
under this division shall be conclusive. 377

Any sale, transfer, lease, or conveyance of a special 378

energy improvement project by a participating political 379
subdivision or the board of directors of the special improvement 380
district may be made without advertising, receipt of bids, or 381
other competitive bidding procedures applicable to the 382
participating political subdivision or the special improvement 383
district under Chapter 153. or 735. or section 1710.11 of the 384
Revised Code or other representative provisions of the Revised 385
Code. 386

Sec. 1710.06. (A) The board of directors of a special 387
improvement district may develop and adopt one or more written 388
plans for public improvements or public services that benefit 389
all or any part of the district. Each plan shall set forth the 390
specific public improvements or public services that are to be 391
provided, identify the area in which they will be provided, and 392
specify the method of assessment to be used. Each plan for 393
public improvements or public services shall indicate the period 394
of time the assessments are to be levied for the improvements 395
and services and, if public services are included in the plan, 396
the period of time the services are to remain in effect. Plans 397
for public improvements may include the planning, design, 398
construction, reconstruction, enlargement, or alteration of any 399
public improvements and the acquisition of land for the 400
improvements. Plans for public improvements or public services 401
may also include, but are not limited to, provisions for the 402
following: 403

(1) Creating and operating the district and the nonprofit 404
corporation under this chapter, including hiring employees and 405
professional services, contracting for insurance, and purchasing 406
or leasing office space and office equipment and other 407
requirements of the district; 408

(2) Planning, designing, and implementing a public 409
improvements or public services plan, including hiring 410
architectural, engineering, legal, appraisal, insurance, 411
consulting, energy auditing, and planning services, and, for 412
public services, managing, protecting, and maintaining public 413
and private facilities, including public improvements; 414

(3) Conducting court proceedings to carry out this 415
chapter; 416

(4) Paying damages resulting from the provision of public 417
improvements or public services and implementing the plans; 418

(5) Paying the costs of issuing, paying interest on, and 419
redeeming notes and bonds issued for funding public improvements 420
and public services plans; 421

(6) Sale, lease, lease with an option to purchase, 422
conveyance of other interests in, or other contracts for the 423
acquisition, construction, maintenance, repair, furnishing, 424
equipping, operation, or improvement of any special energy 425
improvement project by the special improvement district, between 426
a participating political subdivision and the special 427
improvement district, and between the special improvement 428
district and any owner of real property in the special 429
improvement district on which a special energy improvement 430
project has been acquired, installed, equipped, or improved; and 431

(7) Aggregating the renewable energy credits generated by 432
one or more special energy improvement projects within a special 433
improvement district, upon the consent of the owners of the 434
credits and for the purpose of negotiating and completing the 435
sale of such credits. 436

(B) Once the board of directors of the special improvement 437

district adopts a plan, it shall submit the plan to the 438
legislative authority of each participating political 439
subdivision and the municipal executive of each municipal 440
corporation in which the district is located, if any. The 441
legislative authorities and municipal executives shall review 442
the plan and, within sixty days after receiving it, may submit 443
their comments and recommendations about it to the district. 444
After reviewing these comments and recommendations, the board of 445
directors may amend the plan. It may then submit the plan, 446
amended or otherwise, in the form of a petition to members of 447
the district whose property may be assessed for the plan. Once 448
the petition is signed by those members who own at least sixty 449
per cent of the front footage of property that is to be assessed 450
and that abuts upon a street, alley, public road, place, 451
boulevard, parkway, park entrance, easement, or other public 452
improvement, or those members who own at least seventy-five per 453
cent of the area to be assessed for the improvement or service, 454
the petition may be submitted to each legislative authority for 455
approval. If the special improvement district was created for 456
the purpose of developing and implementing plans for special 457
energy improvement projects or shoreline improvement projects, 458
the petition required under this division shall be signed by one 459
hundred per cent of the owners of the area of all real property 460
located within the area to be assessed for the special energy 461
improvement project or shoreline improvement project. 462

Each legislative authority shall, by resolution, approve 463
or reject the petition within sixty days after receiving it. If 464
the petition is approved by the legislative authority of each 465
participating political subdivision, the plan contained in the 466
petition shall be effective at the earliest date on which a 467
nonemergency resolution of the legislative authority with the 468

latest effective date may become effective. A plan may not be 469
resubmitted to the legislative authorities and municipal 470
executives more than three times in any twelve-month period. 471

(C) Each participating political subdivision shall levy, 472
by special assessment upon specially benefited property located 473
within the district, the costs of any public improvements or 474
public services plan contained in a petition approved by the 475
participating political subdivisions under this section or 476
division (F) of section 1710.02 of the Revised Code. The levy 477
shall be made in accordance with the procedures set forth in 478
Chapter 727. of the Revised Code, except that: 479

(1) The assessment for each improvements or services plan 480
may be levied by any one or any combination of the methods of 481
assessment listed in section 727.01 of the Revised Code, 482
provided that the assessment is uniformly applied. 483

(2) For the purpose of levying an assessment, the board of 484
directors may combine one or more improvements or services plans 485
or parts of plans and levy a single assessment against specially 486
benefited property. 487

(3) For purposes of special assessments levied by a 488
township pursuant to this chapter, references in Chapter 727. of 489
the Revised Code to the municipal corporation shall be deemed to 490
refer to the township, and references to the legislative 491
authority of the municipal corporation shall be deemed to refer 492
to the board of township trustees. 493

Church property or property owned by a political 494
subdivision, including any participating political subdivision 495
in which a special improvement district is located, shall be 496
included in and be subject to special assessments made pursuant 497

to a plan adopted under this section or division (F) of section 498
1710.02 of the Revised Code, if the church or political 499
subdivision has specifically requested in writing that its 500
property be included within the special improvement district and 501
the church or political subdivision is a member of the district 502
or, in the case of a district created by an existing qualified 503
nonprofit corporation, if the church is a member of the 504
corporation. 505

(D) All rights and privileges of property owners who are 506
assessed under Chapter 727. of the Revised Code shall be granted 507
to property owners assessed under this chapter, including those 508
rights and privileges specified in sections 727.15 to 727.17 and 509
727.18 to 727.22 of the Revised Code and the right to notice of 510
the resolution of necessity and the filing of the estimated 511
assessment under section 727.13 of the Revised Code. Property 512
owners assessed for public services under this chapter shall 513
have the same rights and privileges as property owners assessed 514
for public improvements under this chapter. 515

Section 2. That existing sections 1710.01, 1710.02, and 516
1710.06 of the Revised Code are hereby repealed. 517